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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,512	10/23/2003	John Anthony Pacione	18856-25US	6050
20/988 7590 10/30/2008 OGILVY RENAULT LLP 1981 MCGILL COLLEGE AVENUE SUITE 1600 MONTREAL, QC H3A2Y3 CANADA				
EXAMINER				
CHOI, STEPHEN				
ART UNIT		PAPER NUMBER		
3724				
MAIL DATE		DELIVERY MODE		
10/30/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/690,512

Applicant(s)

PACIONE ET AL.

Examiner

Stephen Choi

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 4-10 and 12-17 is/are pending in the application.
- 4a) Of the above claim(s) 6, 9, 14 and 15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4, 5, 7, 8, 10, 12, 13, 16 and 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 30, 2008 has been entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-2, 4-5, 7-8, 10, 12-13, and 16-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Peterson, Jr. (US 3,760,673).

Peterson discloses all the recited elements of the invention including a rotatable blade having an edge which is non-linear radially (e.g., 18), a stationary counter-knife having an edge generally conforming to a profile of the blade edge (e.g., 30), a material support surface (e.g., at 35), and the blade edge being located along an imaginary cylindrical surface formed by the rotation of the cutting edge so that the cutting edge of the rotating blade passes the cutting edge of the counter-knife in succession when rotating blade is turned (col. 3, lines 9-19) wherein the blade is movable relative to the

material support along a tangent of the cylindrical surface. It is noted that the blade moves along in a circle tracing all tangent lines.

Regarding claims 2 and 12, col. 3, lines 9-19. Regarding claims 4 and 7, a portion of the blade edge can first rotate past the counter-knife to cut a portion of the carpet pile adjacent a base of the carpet first and the blade edge has a portion capable of cutting an edge of the carpet with an edge on the counter-knife having a profile conforming the portion of the blade edge. Regarding claim 13, the blade is shaped such that it is capable of cutting portions that are perpendicular and angled relative to the plane of the carpet base. Regarding claims 16-17, the element 30 is movable relative to the element 35 via 36. Furthermore, the imaginary cylindrical surface is movable relative to the counter-knife since the blade 18 is adjustable.

Response to Arguments

4. Applicant's arguments filed September 2, 2008 have been fully considered but they are not persuasive.

Applicants contend that Peterson does not teach the element 30 being movable relative to the element 35 via 36. Applicants further contends that the surface 35 has nothing to do with the material being processed and is not for supporting the carpet and nothing to do with carpets or beveling.

The element 30 is movable relative to the element 35 when the element 36 is loosened. Furthermore, the imaginary cylindrical surface is movable relative to the counter-knife since the blade 18 is adjustable. The element 35 supports the workpiece via the element 30. Furthermore, it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate

the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. It is respectfully suggested that limitations reciting the material support surface being movable relative to the blade or the counter knife will overcome the rejections set forth above.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Choi whose telephone number is 571-272-4504. The examiner can normally be reached on Monday-Thursday 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Stephen Choi/
Primary Examiner, Art Unit 3724
25 October 2008